COMMONWEALTH OF MASSACHUSETTS before the DEPARTMENT OF PUBLIC UTILITIES

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Boston	Gas	Company)		D.P.U.	96-50
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Reply Brief of The Energy Consortium

I. Introduction

The Energy Consortium ("Consortium") has reviewed the various briefs filed in this proceeding. On several issues there is agreement by the parties including Boston Gas Company ("BGC" or the "Company"). The Company has agreed to revise its rate design for the G-44/45 and G-54/55 rates. BGC Br. at 86. This will avoid increases in rates for these customers which would violate principles of rate continuity, gradualism and fairness noted by the Consortium in its brief. Consortium Br. at 3-7. In addition, the Company has agreed to withdraw its proposal for rate design and cost allocation flexibility in its performance based regulation plan ("PBR") BGC Br. at 80. The Company has

also agreed to reduce its retention factor applicable to its transportation customers from 2.5% as originally requested. Br. at 149. However, the Company recommends that "company-use" gas be included in the retention factor and that the factor be subject to an annual reconciliation and adjustment. This would increase the initial retention factor from 1.25 % to 1.54 % RR-TEC-3. It would also remove any Company responsibility to maintain or reduce the level of unaccounted-for gas. In the last rate case, D.P.U. 93-60, at 476, the Department specifically excluded company-use gas from the calculation of the retention factor. The Company has provided no basis or reasons to change this ruling. The Consortium recommends that if the retention factor is subject to an annual adjustment, the adjustment should only be to reduce the factor to create the proper performance incentives for the Company. Such a mechanism would avoid the transfer of operating risk within the control of the Company to the customers.

On several other issues the Company has chosen to remain silent in its brief. For example, the Company has not opposed the reduction in the Interim Sales Service charge to the lower of the Daily Index or the CGAC, Consortium Br. 19-20; adoption of combined metering terms and conditions, Consortium Br. 20-21, and; adoption of market power protections for capacity allocation, Consortium Br. at 21-23. The Department should adopt

the recommendations proposed by the Consortium on these issues.

II. Argument

A. Capacity Allocation

The Consortium continues to advocate voluntary capacity assignment for the reasons set forth in its Initial Brief and in the brief of the Division of Energy Resources ("DOER").

Voluntary assignment will maximize customer choice and provide an opportunity for firm and interruptible customers to gain access to capacity rejected by other customers.

However, the Consortium is concerned that during the transition period, through the end of the year 2000, there should be adequate provisions and protections that assure continued reliability of service to all customers and that customers should be protected from their own folly and that of inexperienced marketers in releasing capacity. To some extent this has been addressed by the recall rights suggested by the Company in its mandatory proposal and by DOER in its voluntary proposal. However, as no party has actual experience with capacity assignment in a market where there is insufficient pipeline capacity in the winter period as in New England, the Department must make sure that under any proposal for capacity assignment

the Department retains the right to make adjustments if workable competition does not develop or reliability issues arise.

In this regard the Consortium is concerned that the recall provisions proposed by the Company may not be adequate. Much of the current upstream capacity and storage is now or shortly will be at the end of its fixed contract term. Under the various contracts this capacity can be extended on a year-to-year basis under a so-called "evergreen" provision as long as neither party elects to terminate the contract. Algonquin Gas Transmission Company Br. 14 at footnote 6. Under the capacity assignment proposals in this case the pro-rata slice of these contracts which are in evergreen status may be extended or not by each respective assignee or its marketer when these contracts come up for another evergreen renewal. Tr. 14 at 197-198. See also, RR-DOER-13, RR-DOER-14, Ex. BGC-183. If a contract is not renewed the Company will have no further recall rights on such capacity.

Some customers or their marketers may not realize the value and importance of scarce pipeline capacity and thus may not renew or evergreen the capacity. Without some additional provisions in the capacity assignment program, the decision not to renew the capacity will be irrevocable and can create reliability problems for the customers. Thus, the Consortium supports a more managed approach to capacity release during the transition.

During the transition any capacity assignment program should insure that all capacity necessary to maintain reliability should be extended for a term of years through the year 2000 or be subject to an annual extension exercisable by the Company as a condition of the assignment in order not to loose this capacity permanently from the Boston market. The Consortium will not attempt to micro-manage the process and require the Company to extend all capacity contracts to the year 2002 as suggested by Algonquin Gas Transmission Company in its brief or limit the capacity release to one year as suggested by Commonwealth Gas Company. However, the Company must provide adequate assurances that the capacity assignment program implemented after the Department's approval does not allow the permanent migration of any upstream capacity from the Boston market until the Department has concluded that there is workable competition in the capacity Thus, an assignment or auction of this capacity under a voluntary program, preferred by the Consortium, should retain recall rights of all capacity, including capacity in evergreen status, as outlined above. The recall rights should extend through the end of 2000 or until the Department makes a finding that capacity is no longer necessary to maintain reliability of delivery or that workable competition exists in the service territory.

While the additional recall restrictions may limit the value of the assignment or reassignment rights to the capacity during the transition, it is a necessary balancing of the interests of reliability and avoidance of market power. This major issue raised clearly by Algonquin and Commonwealth Gas in their respective briefs was completely ignored by the Company. While the solution suggested by the Consortium is different from that proposed by Algonquin or Commonwealth, this issue must be addressed by the Department in its Order.

B. <u>Interruptible Transportation (IT")</u>

The Company continues to want to "buy" the IT market at an inadequate price and then utilize its monopoly control over this market to extract monopoly rents under a value-of-service pricing ("VOS") mechanism.

The Company in its Brief fails to address any specifics of the \$2.1 million valuation established for the IT market. The Company ignores the arguments of the Attorney General and others that the IT market is growing and thus the value is improperly calculated. Further, the Company ignores the Consortium's argument that no increase in value or even increase in costs is attributed to increased throughputs in the IT market in the future.

In further reflecting on the value placed on the IT market by BGC, there does not appear to be any justification for the reduction in the average margins earned by the Company to exclude long marginal costs. See RR-DPU-76. Accordingly, the value of the IT market has been undervalued because of the deduction of long run marginal costs from the margin calculation and the failure to reflect or project any growth in the market. Further, the Department should reject any permanent sale of this market.

The Consortium continues to support a change from the VOS pricing mechanism to a cost-based fixed price option and a cost based-ceiling for the flexible pricing option for the IT customers as set forth in its Initial Brief. Consortium Brief at 10-14 and in the Initial Brief of U.S. Gypsum Company, and the Marketers Group.

The Company's only defense to changing the IT pricing to improve the economy of the Commonwealth and to maintain existing and increase throughputs of IT service is to ignore the issues raised and to claim that the recommendation to change the current VOS pricing and sharing mechanisms for BGC raises "serious due process issue[s]". This claim is bogus as the Company itself raised the IT issues in this case and had the testimony of Mr. Robert Cooper witness for U.S. Gypsum Company as required by the procedural schedule in this matter. Further, several LDCs intervened in this case including Bay State Gas Company,

Berkshire Gas Company, Commonwealth Gas Company, Essex County Gas Company, Fall River Gas Company and North Attleboro Gas Company to address policy issues. Moreover, any decision in this case will not be applicable to any other LDC unless and until there is in an adjudicatory applicable to them or a further rulemaking proceeding.

The Department should address this significant monopoly pricing issues raised by VOS pricing and adopt a cost-based ceiling and a fixed price option for IT rates as suggested as suggested by the Consortium and U.S. Gypsum.

C. <u>Balancing Provisions</u>

The Company continues to claim that its daily and monthly balancing guidelines are reasonable and rejects modifications suggested by the Consortium and U.S. Gypsum. BGC Br. at 39-41.

Cf. Consortium Br. 17-18.

There is no dispute that some guidelines are necessary to modify customer behavior and to avoid creation of an operational problem on the system. However, the Company has no factual basis to insist that its more onerous guidelines are necessary as opposed to those suggested by the witnesses for the Consortium or U.S. Gypsum. Exhs. TEC-13 and USGC-1. The Company has presented no evidence that terms and conditions suggested by others would

be insufficient. The Department should not create barriers to transportation, unless there is a demonstrated need. The Department should adopt the balancing provisions suggested by the Consortium and carefully monitor the situation. If problems develop they can be addressed in a separate proceeding limited to those issues.

D. <u>Balancing Charge</u>

The two major providers of balancing services in the market area have made concessions to each other at the expense of the customers. BGC initially proposed a balancing service where it was the sole provider of the service for General Transportation Service at an annual charge of \$0.2649 per MMBTu. Exhs. BGC-75, at 23-24 and BGC-88. Distrigas has proposed to recalculate the charge for balancing services on the basis of a design day and a design year. This would increase the balance charge to \$0.3441 per MMBTu. Distrigas Br. at 10. The Company has proposed a slight modifications to this method which would lower the charge in some unknown amount. BGC Br. at 145-146.

The Consortium suggests that these charges are excessive and fail to consider, as noted by Distrigas in its argument against allocation of local production facilities to transportation charges, that:

"The Company has considerable flexibility in its pipeline and underground storage capacity to cope with hourly load swings most of the year--no notice service, the ability to change nominations during a day on as little as one hour notice, and the ability to take deliveries at greater than 1/24 of the daily quantity."

Distrigas Br. at 13-14.

The foregoing statement has even more relevance to the proper calculation of the balancing charges.

Accordingly, there is no valid reason to price the swing capability for balancing service based solely on the most expensive LNG and propane facilities. Thus, the balancing cost calculated on a marginal cost basis at \$0.2242 per MMBTu should be approved. Further, customers should be given the opportunity to elect this service on a seasonal rather than an annual basis. Thus, the rate should be differentiated on a seasonal basis.

Failure to correct the balancing charge impacts both the General Transportation and Optional Transportation Service customers. If the balancing service rate for General Transportation Service is not reduced this will create an artificially high balancing charge which will be extracted from Optional Transportation Service customers. This does not protect the interests of customers.

III. Conclusion

The Consortium requests that the Department modify the Company's rates, terms and conditions and capacity release plan in accordance with the foregoing recommendations and those contained in the Initial Brief of the Consortium.

Respectfully submitted The Energy Consortium by its attorneys

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